

November 20, 2017 7:00 P.M.

**JONES COUNTY BOARD OF COMMISSIONERS**

**REGULAR MEETING**

**JONES COUNTY AGRICULTURAL BUILDING, 110 MARKET STREET  
TRENTON, NC 28585**

**MINUTES**

**COMMISSIONERS PRESENT:**

Frank Emory, Chairperson  
Mike Haddock, Vice-Chairperson  
Sondra Ipock-Riggs, Commissioner  
Joseph Wiggins, Commissioner  
Zack Koonce, Commissioner

**OFFICIALS PRESENT:**

Franky J. Howard, County Manager  
Angelica Hall, Clerk  
Brenda Reece, Finance Officer

**COMMISSIONERS ABSENT:**

The Chairperson called the meeting to order and Commissioner Joseph Wiggins gave the invocation. **MOTION** was made by Commissioner Zack Koonce, seconded by Commissioner Mike Haddock, and unanimously carried **THAT** the agenda be **APPROVED** as presented.

**MOTION** was made by Commissioner Sondra Ipock-Riggs, seconded by Commissioner Zack Koonce, and carried **THAT** the minutes for the Regular Meeting on November 6, 2017, Special Meeting on October 30, 2017 and Special Meeting November 13, 2017 be **APPROVED** as presented.

**PUBLIC COMMENT PERIOD:**

Mr. Edward and Rebecca Harold spoke to the Board about an old mobile home located on their property. They requested guidance on what to do with the mobile home since it is no longer occupied and outstanding taxes are due on the mobile home.

**1. TAX COLLECTION REPORT**

Mr. Franky Howard, County Manager, presented the Board with the Tax Collection Report for October 2017. This is information only. A copy of this report is marked **EXHIBIT A** and is hereby incorporated and made a part of the minutes.

**2. SHERIFF'S OFFICE- CITY OF JACKSONVILLE VEHICLE DONATION**

Mr. Franky Howard, County Manager, informed the Board that the City of Jacksonville had donated a vehicle to Jones County. The vehicle is a 2005 Chevy Impala that has 51,508 miles and will be used by the Sheriff's Office to transport inmates from one location to another.

**MOTION** made by Commissioner Joseph Wiggins, seconded by Commissioner Mike Haddock and unanimously carried **THAT** Resolution to accept the donated 2005 Chevy Impala be **APPROVED** as presented. A copy of this Resolution is marked **EXHIBIT B** and is hereby incorporated and made a part of the minutes.

**3. SCHOOL PROJECT**

Mr. Franky Howard, County Manager, presented the Board with the Findings Resolution for the School Project. Mr. Howard explained that the resolution spells out the funding source, which includes the NC State Appropriations of \$10.9m and \$3m, \$1.5m from Golden Leaf Foundation, \$9m in QZAB, \$15m in Lottery Funds and New Market Tax Credits (NMTC). It also spells out the financing source, which BB&T has agreed to finance the remaining balance of the school project. The resolution also authorizes the New Funding Agreement with the School Board. It covers Fiscal years 2019-2025, which is a total of 7 years. Mr. Howard explained that the resolution also authorizes the proposed Lease between the School Board and the Developer to build the school.

**MOTION** made by Commissioner Mike Haddock to approve the Findings Resolution to move forward with the school project and submit all final documents to the LGC, seconded by Commissioner Sondra Ipock-Riggs. The Board voted AYES, NAYS, or Not Voting on the MOTION:

Mike Haddock voted **Aye**

Frank Emory voted **Aye**

Zack Koonce voted **Aye**

Sondra Ipock-Riggs voted **Aye**

Joseph Wiggins voted **Aye**

A copy of this Findings Resolution is marked **EXHIBIT C** and is hereby incorporated and made a part of the minutes. A copy of the New Funding Agreement is marked **EXHIBIT D** and is hereby incorporated and made a part of the minutes.

**COUNTY MANAGER'S REPORT**

No Report

**COMMISSIONER'S REPORTS**

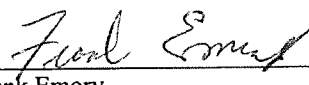
*Commissioner Sondra Ipock-Riggs*, requested correct information be presented to the citizens of the county by informing them that the County is not broke and is not in debt for \$45m.

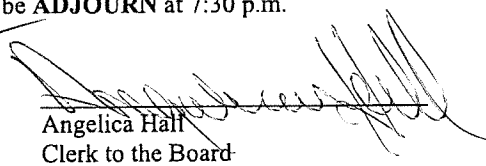
*Commissioner Zack Koonce* requested that the attorney's that handled the lawsuit return and provide a report to the citizens of the county.

**PUBLIC COMMENT PERIOD:**

None

**MOTION** made by Commissioner Joseph Wiggins, seconded by Commissioner Zack Koonce, and unanimously carried **THAT** the meeting be **ADJOURN** at 7:30 p.m.

  
Frank Emory  
Chairman

  
Angelica Hall  
Clerk to the Board

## EXHIBIT A



## COUNTY OF JONES

JONES COUNTY TAX OFFICE

Samuel B. Croom  
Tax Administrator

P.O. Box 87  
Trenton, North Carolina 28585-0087

Phone: (252)448-2546  
Fax: (252)448-1080

November 6, 2017

Jones County Tax Collector:

For the Month of October:

2017 Levy Collected by Tax Office:	\$ 445,317.48
2017 Levy Collected by NCVTS:	60,619.10
2008-2016 Levy Collected:	9,117.99
Total Levy Collected:	<u>\$ 515,054.57</u>

A handwritten signature of Samuel B. Croom in black ink, written over a horizontal line.

Samuel B. Croom  
Jones County Tax Administrator

2017 Levy \$ 6,732,561.96

Collected on 2017 Levy as of 10/31/2017: 1,823,404.54

Other Levy Reduction:

Releases:	12,966.50
Write-Offs:	44.65
Total Levy Reduction:	<u>\$ 1,836,415.69</u>

Percent (%) of Levy Reduced as of 10/31/17: 27.28%

Percent (%) of Levy Reduced as of 10/31/16: 23.10%

## EXHIBIT B

## JONES COUNTY

RESOLUTION

THAT WHEREAS, Jones County is authorized to accept donations of personal property for the benefit of its citizens; and

WHEREAS, the City of Jacksonville has donated to the County a 2005 Chevy Impala – Vin # 2G1WF55K459360782; at a value of \$4500; and

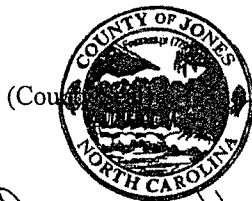
WHEREAS, such donation is essential for the County in which it will be utilized as a Sheriff's vehicle for transportation of inmates; and

WHEREAS, the Board of Commissioners finds that it is appropriate to accept said donation.

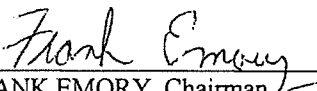
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF JONES COUNTY:

1. The donation by the City of Jacksonville is accepted in order to successfully transport inmates for the Sheriff's Office; and
2. The Finance Department is hereby directed to issue a receipt to the donor acknowledging the County's receipt of the donation.

ADOPTED THIS 20<sup>th</sup> DAY OF NOVEMBER, 2017 at a regular meeting of the Board of Commissioners of the County of Jones.



(County)

  
FRANK EMORY, Chairman

  
ANGELICA HALL, Clerk to the Board

## EXHIBIT C

BOARD OF COMMISSIONERS  
OF  
JONES COUNTY, NORTH CAROLINAExcerpt of Minutes  
of Meeting of  
November 20, 2017Present: Chairman Frank Emery presiding, and Commissioners Mike Haddock,  
Sandra Irick-Riggs, Zack Koonce, Joseph Higgins

Absent: \_\_\_\_\_

\*\*\*\*\*

Commissioner Frank Emery introduced the following resolution, the title of which was read:

RESOLUTION AUTHORIZING MAKING CERTAIN  
FINDINGS REQUIRED BY NORTH CAROLINA GENERAL  
STATUTES §159-15, APPROVING THE EXECUTION OF  
FINANCING DOCUMENTS, AND AUTHORIZING CERTAIN  
LOANS TO JONES COUNTY FINANCE CORPORATION TO  
FINANCE A NEW SCHOOL

WHEREAS, the Board of Commissioners (the "Board of Commissioners") of Jones County, North Carolina (the "County") desires to pursue the financing of the acquisition, construction and equipping of a new K-12 school for the County (the "Project") pursuant to an installment financing contract, as permitted under N.C.G.S. §160A-20; and

WHEREAS, the County has obtained funding for the Project from a number of sources, including appropriations from the State of North Carolina (\$13,957,288) (the "NC Appropriation"), a grant from the Golden Leaf Foundation (\$1,500,000), and a grant from the Needs-Based Public School Capital Fund in the amount of \$15,000,000 (the "2017 Capital Fund Grant"); and

WHEREAS, the County and the Jones County Board of Education (the "Board of Education") have been working with FirstFloor K-12 Solutions LLC, a North Carolina limited liability company on a proposed development agreement and operating lease structure under N.C.G.S. § 115C-530 of the North Carolina General Statutes pursuant to which (a) the County will enter into a ground lease of the real property on which the Project will be built (the "Site") to FirstFloor Jones, LLC, an affiliate of FirstFloor K-12 Solutions ("FirstFloor") pursuant to the N.C.G.S. §160A-272 and 160A-269 (the "Ground Lease"), and (b) FirstFloor will construct the Project, and then lease it back to the Board of Education under an operating lease (the "Operating Lease" and collectively, the "Lease Structure") under N.C.G.S. §115C-530; and

WHEREAS, the County and the Board of Education intend to enter into an Interlocal Agreement –Funding pursuant to which the County and the Board of Education agree to certain funding levels Funding Agreement for operation of the Jones County school system by the Board of Education, including local current expenses, capital outlay funds, and the Operating Lease (the “Funding Agreement”);

WHEREAS, FirstFloor has agreed in the Ground Lease to develop and construct the Project as a “net zero” building that is expected to eliminate utility costs for electricity in the operation of the Project; and

WHEREAS, a portion of the financing of the Project (the “New Markets Tax Credit Financing”) will be provided through financing provided under the new markets tax credit program (the “NMTC Program”) under Section 45D of the Internal Revenue Code of 1986, as amended (the “Code”);

WHEREAS, the County applied to the North Carolina Department of Public Instruction (“DPI”) to receive an allocation of authorization to issue qualified zone academy bonds under Section 54E of the Internal Revenue Code of 1986, as amended (the “Code”), and was awarded allocation in the amount of \$ 8,998,572.50 (the “QZAB”) to be used to purchase equipment for the Project (the “QZAB Equipment”), as the Project qualifies as a “qualified zone academy” under the Code, which will allow the County to achieve a very low or zero interest rate with respect to such financing; and

WHEREAS, the County intends to enter into an installment financing contract to utilize the QZAB allocation and to provide additional funding for the Project in the aggregate amount of up to \$11,998,000 (the “County Financing”), a portion of which will be designated as the QZAB; and

WHEREAS, the County, through Piper Jaffray as placement agent, sought bids from various financial institutions to provide the County Financing; and

WHEREAS, Branch Banking and Trust Company (the “Bank”) submitted proposals dated November 9, 2017 (the “Proposal”), pursuant to which the Bank offered to enter into an installment financing contract with the County in the amount of up to \$11,998,000 (the “Contract”) to finance a portion of the cost of the Project, a portion of which will be designated as the QZAB, and to pay certain costs associated with the financing, to be secured by an assignment of the leasehold deed of trust from FirstFloor that creates a senior lien on FirstFloor’s leasehold interest in the Project (the “Assignment of Senior Leasehold Deed of Trust”);

WHEREAS, the County intends to lend the proceeds of the Contract to Jones County Finance Corporation (“JCFC”), a North Carolina nonprofit corporation created and controlled by the County, pursuant to a loan agreement and promissory note from JCFC to the County (the “JCFC Senior Loan Documents”);

WHEREAS, JCFC will in turn lend the proceeds of the Contract to FirstFloor to be used to construct the Project and to acquire and install the QZAB Equipment, which loan will be evidenced by a Senior Direct Loan Agreement, a Senior Direct Promissory Note, and a first priority Leasehold Deed of Trust with Absolute Assignment of Leases and Rents, Security

Agreement and Fixture Filing in favor of JCFC (the "Senior Leasehold Deed of Trust" and collectively, the "Senior Direct Loan Documents"), which JCFC will assign to the County as security for the County's loan to JCFC, and the County will assign to the Bank as security for the Contract;

WHEREAS, in order to provide funding to leverage into additional new markets tax credits in the New Markets Tax Credits Financing, pursuant to N.C.G.S. Section 160A-279, the County has agreed to approximately \$10,675,850 of the NC Appropriation to JCFC pursuant to (i) a loan and security agreement between the County and JCFC (the "Upper Tier Loan Agreement"), (ii) a promissory note executed by JCFC in favor of the County (the "Upper Tier Note") and (iii) a security and pledge agreement pursuant to which JCFC pledges to the County as security for the Upper Tier Note all of the loan and security documents entered into by JCFC in connection with the leverage loans described below (the "Upper Tier Pledge Agreement," and together with the Upper Tier Note and the Upper Tier Loan Agreement, the "Upper Tier Loan Documents");

WHEREAS, such proceeds of the Upper Tier Loan will be used to in the New Markets Tax Credit Financing make loans to FirstFloor (collectively, the "QLICI Loans") and disbursed pursuant to a QLICI Loan Agreement to pay for or reimburse costs related to the, acquisition, development and construction of the Project;

WHEREAS, the QLICI Loans will be secured by a leasehold deed of trust on FirstFloor's leasehold interest in the Site (the "Second Leasehold Deed of Trust"), which will be subordinate to the Senior Leasehold Deed of Trust;

WHEREAS, the County will also lend a portion of NC Appropriation and the 2017 Capital Funds Grant in the amount of approximately \$18,300,000 to JCFC (the "Subordinate Loan") pursuant to a loan agreement and promissory note from JCFC to the County (the "JCFC Subordinate Loan Documents");

WHEREAS, JCFC will in turn lend the proceeds of the Subordinate Loan to FirstFloor to be used to construct the Project, which loan will be evidenced by a Subordinate Direct Loan Agreement, a Subordinate Direct Promissory Note, and a third priority Leasehold Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing in favor of JCFC (the "Subordinate Deed of Trust" and collectively, the "Subordinate Direct Loan Documents"), which JCFC will assign to the County as security for the County's Subordinate Loan to JCFC;

WHEREAS, in connection with the New Markets Tax Credit Financing, pursuant to an agreement (the "Tax Credit Put/Call Agreement") between JCFC and Capital One, N.A., the new markets tax credit investor (the "Tax Credit Investor"), subsequent to the seven-year compliance period contemplated by Section 45D of the Code, the Tax Credit Investor will have the right to sell its equity interests in the Investment Fund to JCFC, and JCFC will have the right to purchase the equity interests in the Investment Fund from the Tax Credit Investor, as described more particularly in the Tax Credit Put/Call Agreement, which will result in JCFC owning the QLICI Loans from FirstFloor; and

WHEREAS, the County intends to enter into a memorandum of understanding (the "MOU") with JCFC pursuant to which the County agrees to pay to JCFC amounts sufficient to make payments under the Tax Credit Put/Call Agreement, (collectively, the "NMTC Transaction Documents"), if required;

WHEREAS, pursuant to N.C.G.S. §160A-20, the Contract for the financing of the Project must be approved by the North Carolina Local Government Commission (the "LGC") and will only be approved if the findings of N.C.G.S. §159-151(b) have been made;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County, as follows:

1. After consideration, the Board of Commissioners has determined that the most advantageous manner of financing the County's financed portion of the Project (including the QZAB) is by an installment financing contract pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended.
2. Pursuant to Section 160A-20, the County is authorized to finance the Project by entering into an installment financing contract and to grant a security interest in some or all of the property financed to secure repayment of such financing.
3. Pursuant to Section 115C-530, the Operating Lease is required to be approved by the County and requires approval from the LGC.
4. In support of the execution of the Contract, the Board of Commissioners makes the following findings:
  - (a) The proposed financing is necessary or expedient because it will provide funds to construct a much needed K-12 school for the County.
  - (b) The proposed financing is preferable to a bond issue for the same purpose because of the following:
    - (i) low fixed costs and favorable interest rates offered through installment contract financing compared to a bond issue, including through the designation of a portion of the financing as a QZAB allowing for a very low or no interest rate;
    - (ii) the unique opportunity to obtain equity for the Project through the new markets tax credits; and
    - (iii) the significant savings to the Board of Education's (and therefore the County's) operating budget from a "net zero" building that will eliminate most of the utility costs for the Project after completion; and because of the ability to close quickly on the financing to take advantage of those rates.
  - (c) The cost of the proposed undertaking exceeds the amount of funds that can be prudently raised from currently available appropriations, unappropriated fund balances, and non-voted general obligation bonds that could be issued by the County in the fiscal year pursuant to Article V, Section 4, of the North Carolina Constitution.



(d) The sums proposed to be provided under the financings are adequate and not excessive for the stated purpose of financing the Project.

(e) The County's debt management procedures and policies are good and have been carried out in strict compliance with law and will henceforth be so carried out.

(f) There will be no increase in taxes necessary to meet the sums to fall due under the proposed financings.

(g) The County is not in default in any of its debt service obligations.

5. The attorney for the County has rendered an opinion that the proposed financing is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

6. The Board of Commissioners hereby accepts the Proposal, and authorizes and directs the Chairman, the Vice Chairman and the County Manager (the "Authorized Officers"), or any of them, to execute, acknowledge and deliver the Contract and the Assignment of Senior Leasehold Deed of Trust (collectively, the "IFA Documents") on behalf of the County, with such changes and modifications as the person executing and delivering such instruments on behalf of the County shall find acceptable. The Clerk is hereby authorized to affix the official seal of the County to the IFA Documents and to attest the same.

7. Each of the Authorized Officers and other appropriate officers of the County is hereby authorized and directed to execute and deliver any and all papers, instruments, agreements, tax certificates, opinions, certificates, affidavits and other documents, and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution, the IFA Documents and the financing of the Project.

8. The County hereby designates that portion of the Contract that will be used to finance the acquisition and installation of the QZAB Equipment in the amount of \$8,998,572.50 as a "qualified zone academy bond" under Section 54D of the Internal Revenue Code of 1986, as amended.

9. The Board of Commissioners hereby approves and authorizes the use of the proceeds of the Contract to make a loan to JCFC, so that it can make a loan to FirstFloor, and in connection therewith authorizes the execution, delivery and performance by the County and JCFC of the JCFC Senior Loan Documents;

10. The Board of Commissioners hereby approves and authorize the use of a portion of the NC Appropriation and the 2017 Capital Funds Grant in the amount of approximately \$18,300,000 to make the JCFC Subordinate loan to JCFC, and in connection therewith, authorizes the execution, delivery and performance by the County and JCFC of the JCFC Subordinate Loan Documents;

11. The Board of Commissioners hereby approves and authorizes the making of the Upper Tier loan in the amount of up to \$11,000,000 out of the proceeds of the NC Appropriation

to JCFC and the execution, delivery and performance by the County and JCFC of the Upper Tier Loan Documents.

12. The Board of Commissioners hereby approves and authorizes the execution, delivery and performance by the County of the MOU.

13. The Board of Commissioners hereby approves and authorizes the execution, delivery and performance by the County of the Funding Agreement with the Board of Education.

14. The Board of Commissioners hereby approves the execution and delivery of the documents to which the County and JCFC are a party and all other documents necessary on the County's part for the New Market Tax Credit Financing, and, to the extent the County or JCFC are parties to such transactions, the consummation of all other transactions described in the recitals to this resolution (collectively, the "Plan of Financing").

15. Each of the Authorized Officers is hereby authorized and directed to execute and deliver the IFA Documents, the MOU, the Upper Tier Loan Documents, the JCFC Senior Loan Documents, the JCFC Subordinate Loan Documents, the Funding Agreement, and such other documents as may be required to be executed by the County in connection with the construction and financing of the Project, in substantially the form made available to or described to the Board of Commissioners at this meeting, with such changes or additions thereto or deletions therefrom as the Authorized Officer executing the same shall approve, which approval conclusively evidenced by his or her execution of such instruments. The Clerk is hereby authorized to attest and to affix the official seal of Jones County, North Carolina to such documents as may require such attest and seal.

16. The Authorized Officer and any person or persons designated and authorized by the Board of Commissioners to act in the name and on behalf of the County, or any one or more of them, are authorized to do and perform or cause to be done and performed in the name and on behalf of the County such other act, to pay or cause to be paid on behalf of the County such related costs and expenses, and to execute and deliver or cause to be executed and delivered in the name and on behalf of the County such other notices, requests, demands, directions, consents, approvals, orders, applications, certificates, agreement, further assurances, or other instruments or communications, under the seal of the County, or otherwise, as they or any of them may deem necessary, advisable, or appropriate in order to (a) complete the Plan of Financing, and (b) carry into effect the intent of the provisions of this resolution.

17. No provision of this resolution shall be construed or interpreted as creating a pledge of the faith and credit of the County within the meaning of any State of North Carolina constitutional debt limitation. No provision, of this resolution shall be construed or interpreted as creating a delegation of governmental powers nor as a donation by or a lending of the credit of the County within the meaning of the constitution of the State.

18. Each act of the Authorized Officer, the County Finance Officer, or any person or persons designated and authorized to act by the Board of Commissioners, which act would have been authorized by the foregoing provisions of this resolution except that such action was taken prior to the adoption of this resolution, is hereby ratified, confirmed, approved and adopted.

19. All other acts of the Board of Commissioners and the officers of the County which are in conformity with the purposes and intent of this resolution and in furtherance of the financing of the Project are hereby ratified, approved and confirmed.

20. This resolution shall take effect immediately.

Commissioner Mike Haddon moved the passage of the foregoing resolution and Commissioner Sandra Ives-Riggs seconded the motion, and the resolution was passed by the following vote:

Ayes: Commissioners Frank Emory, Mike Haddon, Sandra Ives-Riggs, Zack Koonce, Joseph Kiggins  
Nays: Commissioners \_\_\_\_\_  
Not voting: Commissioners \_\_\_\_\_

The undersigned Clerk for the Board of Commissioners of Jones County, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and complete copy of a resolution that was adopted at a meeting of the Board of County Commissioners called and held on November 20, 2017, and that the proceedings of such meeting are recorded in the Minutes of the Board of Commissioners. Pursuant to G.S. § 143-318.12, a current copy of a schedule of regular meetings of the Board of Commissioners is on file in my office.

WITNESS my hand and the official seal of the County this 20<sup>th</sup> day of November, 2017.



Angela Hall  
Clerk

Board of Commissioners  
Jones County, North Carolina

NORTH CAROLINA

EXHIBIT D

JONES COUNTY

INTERLOCAL AGREEMENT - FUNDING

THIS AGREEMENT, effective the 20th day of November 2017, between JONES COUNTY, herein referred to as the "COUNTY"; and the JONES COUNTY BOARD OF EDUCATION, herein referred to as the "BOARD OF EDUCATION,"

## RECITALS

The COUNTY and the BOARD OF EDUCATION agree that it is in the best interest of the students and citizens that certain funding levels be maintained to support public education in Jones County. To that end, the COUNTY and the BOARD OF EDUCATION agree as follows:

## AGREEMENT

1. The County is an integral part of the structure of public education. The County is the tax-levying authority for the schools. Each year the County engages in a detailed budgetary process to estimate revenues and make appropriations for the forthcoming year. In the annual budget ordinance, the County must include its appropriations to Jones County Schools for current expenses and capital outlay sufficient to support a system of free public schools. In addition to its funding responsibilities, the County has statutory responsibility to approve certain Board of Education budget amendments, transfer the proceeds of fines, penalties and forfeitures, and issue debt for school construction.
2. The Board of Education is a corporate body with powers and duties conferred and imposed by law respecting public schools. The most significant duties of the Board of Education include:
  - providing leadership and direction through the formulation of goals and objectives, especially in defining and setting high academic standards for student success;
  - creating policies that establish standards, accountability and evaluation of essential operations of the school district;
  - taking steps necessary to help ensure legal compliance of board and school district functions;
  - performing judicial functions by conducting hearings as appropriate or required by law regarding decisions of school district personnel or the board;
  - hiring a superintendent, supporting the superintendent in his or her administration, and evaluating and responding to recommendations made by the superintendent, including recommendations pertaining to the educational program and facility needs;
  - considering the budget recommended by the superintendent, presenting the budget to the county commissioners, and adopting a budget after evaluating whether the county commissioners' appropriation is sufficient to support a system of free public schools; and
  - being an advocate for the school district, staff and especially for students, in all interactions with other governmental entities and the public.

3. The County reviews the Board of Education proposed budget as part of the County's regular budget process. The County's budget includes two appropriations, one to local current expense fund and one to the local capital outlay fund. G.S. 159-13(9) prohibits the County from reducing the Board of Education appropriations after it adopts the County budget ordinance unless the Board of Education consents to the reduction or economic conditions require a general reduction in County spending.
4. The County and Board of Education agree to the following funding plan for the period beginning with the 2018-2019 fiscal year which begins on July 1, 2018:
  - A. Local Current Expense. The County Agrees to provide local current expense funding to the Board of Education as follows:
    - 2018-2019 fiscal year: \$ 1,874,715
    - 2019-2020 fiscal year: \$ 1,567,979
    - 2020-2021 fiscal year: \$ 1,587,579
    - 2021-2022 fiscal year: \$ 1,607,423
    - 2022-2023 fiscal year: \$ 1,627,516
    - 2023-2024 fiscal year: \$ 1,647,860
    - 2024-2025 fiscal year: \$ 1,668,458
  - B. Local Capital Outlay Fund. The County Agrees to provide capital outlay funding to the Board of Education as follows:
    - 2018-2019 fiscal year: \$ 70,000
    - 2019-2020 fiscal year: \$ 75,000
    - 2020-2021 fiscal year: \$ 75,938
    - 2021-2022 fiscal year: \$ 76,887
    - 2022-2023 fiscal year: \$ 77,848
    - 2023-2024 fiscal year: \$ 78,821
    - 2024-2025 fiscal year: \$ 79,806
  - C. Forestry Receipts. In addition to the amounts set forth above, the County shall pass through to the Board of Education the full amount of any funds it receives under the Secure Rural Schools and Community Self-Determination Act, 16 U.S.C. §7101, et. seq., or any successor statute or program, also referred to as Forestry Receipts.
  - D. Operating Lease and Expenses – New K-12 School (“New School”). The County and the Board of Education have entered into a transaction for the construction of the New School in the County. The New School will be constructed by FirstFloor Jones LLC (the “Developer”) and leased to the Board of Education under an operating lease (the “Lease”). The New School will replace three existing schools: Trenton Elementary School, Jones Middle School, and Jones Senior High School, which shall be closed upon opening of the new school. Funding for the New School will be provided through a combination of qualified zone academy bonds (“QZABs”), a taxable loan (“Taxable Loan”), a grant from Lottery Funds (the “Grant”) and appropriations (“Appropriations”) received by the County and the Board of Education for the New School. Such funding will be loaned to the Developer to be used to pay construction costs for the New School. Payments under the Lease are intended to be sufficient to repay the QZABs and the Taxable Loan, as well as to cover the costs and expenses of operating the New School.

- 2018-2019 fiscal year: N/A
- 2019-2020 fiscal year: \$890,000
- 2020-2021 fiscal year: \$890,000
- 2021-2022 fiscal year: \$890,000
- 2022-2023 fiscal year: \$890,000
- 2023-2024 fiscal year: \$890,000
- 2024-2025 fiscal year: \$890,000

In addition to the amounts described above, the County and the Board of Education acknowledge that a portion of the payment required under the Lease will be used by the Developer to repay the loans of a portion of the Grants and Appropriations to the Developer. Such amounts will be appropriated by the County to the Board of Education, and will be paid by the Developer back to the County. That amount is expected to be \$196,000 in additional lease funding in each year, beginning with the 2019-2020 fiscal year.

- E. If in May 2019 it is reasonably anticipated that the New School will open and be ready for occupancy for the start of the 2019-2020 school year, then the Board of Education shall transfer ownership of Trenton Elementary School, Jones Middle School, and Jones Senior High School to the County effective no later than July 1, 2019, at which point the County shall lease all three schools back to the Board of Education to allow the Board of Education time to move all equipment, supplies, and other materials from the schools. During the pendency of the leases, the County shall be responsible for all utilities incurred by the Board of Education at the three schools after July 1, 2019. The County's agreement to fund the New School construction shall serve as consideration for transfer of the three schools to the County.

Notwithstanding section 4(A), above, if the New School is not open and ready to be used for the start of the 2019-2020 school year, the County agrees to provide local current expense funding to the Board of Education for the 2019-2020 fiscal year in the amount of \$1,940,330.40, and the parties shall also agree upon the date the Board of Education shall transfer Trenton Elementary School, Jones Middle School, and Jones Senior High School, including the payment of utilities by the County for those three schools, based upon the then current anticipated completion date for the New School.

- F. Additional Requests. In the event that the Board of Education believes that its needs exceed funds available from state and federal sources, the Board of Education will present those needs to the County for consideration. The County may unilaterally add funds to the local current expense or local capital outlay appropriation to the Board of Education at any time during this Agreement, but is not obligated to do so.
- G. Sales Tax Allocations and Use. Beginning with the 2019-2020 fiscal year, to assist with the capital needs in section 4(B) until the Lease and/or any debt service for the New School is retired, \$200,000 of Local Government Sales and Use Taxes, Article 40 and 42 normally allocated to the Board of Education will be used by the County to retire any indebtedness incurred by the County for Public School Capital outlay.
- H. Gym Debt. In addition, the Board of Education will draw down \$169,367 annually from the North Carolina Lottery Fund and/or ADM to cover the existing debt for the high school gym.

- I. The County also agrees to commit \$400,000.00 per year of the additional sales tax allocation under Article 44, G.S.105-524 to the Cost of the New School. Such funds may be part of the appropriation to the Board of Education to make payments on the Lease under 4(D).
- J. The remainder of the Local Government Sales and Use Taxes will be allocated to the Board of Education and distributed as Article 40 and 42 of the General Statutes allows for Public School Capital Outlay purposes as defined in G.S. 115C-426(f). In the event that capital needs exceed funds available from sales and use tax, the Board of Education will present those to the County for consideration from other funding sources.
- K. In consideration for the terms and conditions contained herein, Board of Education agrees that it shall not institute any challenge or litigation in relation to the matters set forth herein during the term of this Agreement, whether pursuant to N.C.G.S. Ch. 115C, or any other federal or state law.
- L. The parties agree that in the event of any future funding disputes during the term of this Agreement, this Agreement may be pled as a basis for a cause of action or as a bar or limitation to recovery, and introduced into evidence for any relevant purposes related thereto.

5. Term:

The term of this Agreement shall expire on the 30<sup>th</sup> day of June, 2025.

6. Amendment or Modification:

This Agreement may be modified or amended at any time upon the mutual consent of the parties expressed in writing and signed by the parties.

7. Miscellaneous:

A. Notices. Unless otherwise provided herein, all demands, notices, approvals, consents, requests, opinions and other communications hereunder shall be in writing and delivered in person or mailed by first class registered or certified mail, postage prepaid, addressed to:

Jones County  
418 Highway 58 North, Unit A  
Trenton, North Carolina 28585  
Attn: County Manager

with a copy to: Jones County Attorney  
416 Pollock Street  
P.O. Box 889  
New Bern, NC 28560



Board of Education  
320 W. Jones St.  
Trenton, NC 28585  
Attention: Superintendent

with a copy to Board of Education Attorney  
Tharrington Smith  
150 Fayetteville Street  
Raleigh, NC 27607  
Attention: Colin Shive

If a notice is mailed as provided for in the previous sentence, it shall be deemed to be received on the third day after the day that it was deposited in the United States mail or on the day that it is actually received by any of the designated persons, whichever is earlier. If a notice is hand-delivered, it shall be deemed to be received when it is handed to any of the particular individuals designated to receive hand-delivered notice or, if hand-delivery is refused, on that refusal. The persons designated to receive either mailed notice or hand delivered notice shall not be changed without sending prior written notice to the other party to this Agreement.

B. No Third Party Beneficiaries. Nothing herein is intended or shall be construed to confer upon or to give to any person or entity other than the parties hereto any rights or remedies under this Agreement.

C. Conditions. There is no conditions precedent or subsequent to the execution of this Agreement, except as specifically expressed herein or required by the laws of the State of North Carolina.

D. Entire Agreement; Modification: This Agreement supersedes all prior agreements and constitutes the entire agreement between the parties hereto, including but not limited to that certain "Settlement Agreement" entered into by the parties on or about October 28, 2014.

E. Severability: If any of the provisions of this Agreement shall be held by a court of competent jurisdiction to be unconstitutional or unenforceable, the decision of such court shall not affect or impair any of the remaining provisions of this Agreement, and the parties shall, to the extent they deem to be appropriate, take such actions as are necessary to correct any such unconstitutional or unenforceable provision. It is hereby declared to be the intent of the parties to this Agreement that this Agreement would have been approved and executed had such an unconstitutional or unenforceable provision been excluded therefrom.

F. Binding Effect: This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors, and assigns.

G. Assignment: Except as may otherwise be expressly provided herein, no party may assign any right, obligation, or liability arising hereunder without the other party's prior written consent. Any such assignment or attempted assignment shall be null and void.

H. Headings: Headings in this Agreement are for convenience and reference only and shall not be used to interpret or construe its provisions.

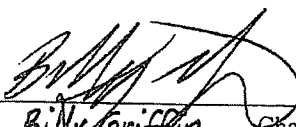
I. Duplicate Originals: This Agreement shall be executed in duplicate originals, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

J. Governing Law; Venue: This Agreement shall be construed in accordance with and governed by the laws of the State of North Carolina. Venue for any action between the parties, whether at law or in equity, shall be in a court of competent jurisdiction for Jones County, North Carolina.

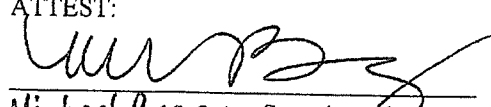
IN WITNESS WHEREOF, the COUNTY and the BOARD OF EDUCATION have each caused this instrument to be signed in the corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its respective Boards, the day and year first above written.

**JONES COUNTY BOARD OF EDUCATION**

By: \_\_\_\_\_

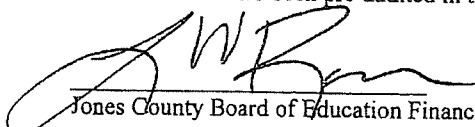
  
Billy Griffin, Chairman  
Jones County Board of Education

ATTEST:

  
Michael Bracy, Superintendent

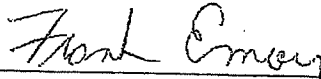
-SEAL-

This instrument has been pre-audited in the manner required by the School Budget and Fiscal Control Act.

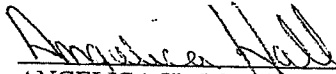
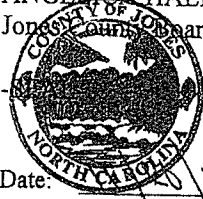
  
\_\_\_\_\_  
Jones County Board of Education Finance Officer

## JONES COUNTY

By: \_\_\_\_\_

FRANK EMORY, Chairman,  
Jones County Board of Commissioners

ATTEST:

ANGELICA HALL, Clerk  
Jones County Board of Commissioners

Date: \_\_\_\_\_

11/20/17

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

  
Brenda Creech  
Jones County Finance Officer

Date: 11/20/17

